

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

-against-

ORDER

91-CR-384-1 (DRH)

SPYREDON VELENTZAS,

Defendant.

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Before the Court is an application by defendant pursuant to 18 U.S.C. § 3582(c)(1)(A) “for an order reducing his sentence of imprisonment to time served or, in the alternative, modifying his prison sentence to home detention for the remainder of his sentence based on the ‘extraordinary and compelling reasons’ discussed [therein].” (DE 278 at 1.). In support thereof, it was asserted that defendant’s “daughter Maria Valentzas [sic] made an application directly to the BOP and this application made on behalf of the defendant was denied on May 18, 2020.” (*Id.* at ¶ 3).

By Order dated November 19, 2020, the Court first noted that § 3582 allows a motion for compassionate relief to be made by either the Bureau of Prisons or a defendant, but in the latter case only “after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant’s behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant’s facility, whichever is earlier.” Finding the application’s recitation was insufficient to determine whether defendant exhausted his administrative remedies, the Court directed defendant to file a letter specifying

(1) when the initial application was made and to whom; (2) the date the initial application was denied; (3) whether any appeal from the denial was filed, to whom the appeal was made and the status thereof, including the date of any denial.

In his response to the Court's November 19 Order, defendant was advised as follows:

[The request] was denied on May 18, 2020 by Warden Howard. Finally, an appeal was filed by the defendant pro se on July 7, 2020 with the United States Court of Appeals Second Circuit docket no.: 20-1925, and opposing attorney AUSA David C. James. Counsel was unaware that the defendant filed this pro se appeal. Currently the appeal is still pending and no decision has been made.

(DE 280.)

Sections 571.61 of Title 28 of the Code of Federal Regulations sets forth how an inmate must submit a request under Section 3582 to the BOP. A denial by a warden must be appealed to the appropriate BOP Regional Director. *See* 28 C.F.R. § 571.63. If the Regional Director denies the request, the inmate must appeal to the General Counsel of the BOP. *See* 28 C.F.R. § 542.15(a); *see United States v. Seng*, 2020 WL 2301202, at *7 & n.13 (S.D.N.Y. May 8, 2020).

As defendant has not filed a proper appeal from the warden's denial of his request for compassionate release, the instant motion is dismissed for failure to exhaust administrative remedies.

SO ORDERED.

Dated: Central Islip, New York
December 8, 2020

s/ Denis R. Hurley
Denis R. Hurley
United States District Judge